

NOT FOR PUBLICATION

CLOSED

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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YOSHITAKA KUBO,	:	
Plaintiff,	:	<b>Hon. Dennis M. Cavanaugh</b>
v.	:	
OFFICER THOMAS ROSSI, <i>et al.</i> ,	:	Civil Action No. 09-cv-4771 (DMC - MF)
Defendants.	:	

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**ORDER**

DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court upon three motions to dismiss Plaintiff's complaint for failure to prosecute (ECF Nos. 39, 40 and 41). Plaintiff filed no opposition to Defendant's motion to dismiss. On April 25, 2012, Magistrate Judge Falk filed a Report and Recommendation (ECF No. 42). Plaintiff filed no opposition to Judge Falk's Report and Recommendation. Judge Falk respectfully recommends that the complaint be dismissed with prejudice. For the reasons discussed herein, this Court **adopts** the Report and Recommendation of Magistrate Judge Falk.

Plaintiff commenced this action on September 16, 2009 alleging violations of 42 §§ U.S.C. 1983, 1985 and 1986 arising out of a traffic stop and arrest on September 26, 2007. Magistrate Judge Falk noted various deficiencies in Plaintiff's participation in the discovery process, which commenced in March 2010. The most telling deficiency involved Plaintiff's failure to remain in contact with his attorney, and the most significant deficiency involved

Plaintiff's failure to participate in Court ordered conferences and meetings. Judge Falk held several status conferences and extended the time for Plaintiff to appear for his deposition. On February 21, 2012, neither Plaintiff nor his counsel appeared for a case management conference. The Court has not received any communications from Plaintiff or his counsel since April 2, 2012. No opposition has been filed to the motions to dismiss.

Magistrate Judge Falk engaged in analysis under the Poulis v. State Farm & Casualty Co. test, and found that the six factors weighed in favor of imposing an involuntary order of dismissal based on Plaintiff's abandonment of the case. See 747 F.2d 863, 868 (3d Cir. 1984). Based on the reasoning expressed in Judge Falk's Report and Recommendation;

IT IS on this 15<sup>th</sup> day of May, 2012,

**ORDERED** that the Report and Recommendation of Magistrate Judge Falk (ECF No. 42) is hereby **adopted** as the Opinion of the Court; and it is further,

**ORDERED** Defendants' motions to dismiss (ECF Nos. 39, 40, 41) are **granted** and the complaint **dismissed with prejudice**.

s/ Dennis M. Cavanaugh  
Dennis M. Cavanaugh, U.S.D.J.

Original: Clerk  
cc: All Counsel of Record  
Hon. Mark Falk, U.S.M.J.  
File